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NOTES

There are two Extraordinary issues to Official Gazette, Series I No. 1 dated 1-4-2021, namely:—

(1) Extraordinary dated 5-4-2021 from pages 17 to 24 from Department of Transport, Notification No. D. Tpt/EST/2812/2019/966 regarding compounding of offences under M.V. Act, 1988.

(2) Extraordinary (No. 2) dated 6-4-2021 from pages 25 to 28, Department of Home, Notification No. 21/5/2020-HD(G)/Part II/976 regarding amendment of notification dated 23-11-1995.

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GOVERNMENT OF GOA

Department of Law
Legal Affairs Division

Notification

10/4/2019-LA

The Recycling of Ships Act, 2019 (Central
Act No. 49 of 2019), which has been passed

by Parliament and assented to by the
President on 13-12-2019 and published in the
Gazette of India, Extraordinary, Part II,
Section 1, dated 16-12-2019, is hereby
published for the general information of the
public.

D. S. Raut Dessai, Joint Secretary (Law).

Porvorim, 21st May, 2020.

THE RECYCLING OF SHIPS ACT, 2019

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THE RECYCLING OF SHIPS ACT, 2019

AN

ACT

to provide for the regulation of recycling of ships by setting certain standards and laying down the statutory mechanism for enforcement of such standards and for matters connected therewith or incidental thereto.

Whereas, the International Maritime Organisation adopted the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 which ensures that ships, when being recycled after the end of their operational lives, do not pose any unnecessary risk to the environment and to human health and safety;

And whereas, the said Convention was developed with inputs from International Maritime Organisation Member States, Non-Governmental Organisations and in co-operation with the International Labour Organisation and the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1989;

And whereas, the Hong Kong Convention lays down the aspects relating to design, construction, operation and preparation of ships so as to facilitate safe and environmentally sound recycling, without compromising the safety and operational efficiency of ships and the establishment of an appropriate enforcement mechanism for recycling of ships;

And whereas, the said Convention contains the provisions which are not covered in the Ship-breaking Code (Revised), 2013 notified by the Government of India to regulate the recycling of ships in India;

And whereas, the said Convention lays down the multilateral framework to be

followed internationally by countries which become a party to it;

And whereas, India, being a Member-State of the International Maritime Organisation, had participated in the said Convention and expressed views for the protection of environment and human health and safety during the process of recycling of ships;

And whereas, it is considered expedient to accede to the aforesaid Convention now and to have an appropriate legislation on issues relating to the recycling of ships.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title, commencement and application.*— (1) This Act may be called the Recycling of Ships Act, 2019.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

(3) Unless otherwise expressly provided, the provisions of this Act shall apply to—

(a) any existing ship which is registered in India wherever it may be;

(b) any new ship which is required to be registered in India, wherever it may be;

(c) ships, other than those referred to in clauses (a) and (b), that enter a port, shipyard or off-shore terminal or a place in India or within the Exclusive

Economic Zone or territorial waters of India or any marine areas adjacent thereto over which India has, or may have, exclusive jurisdiction with respect to control of pollution under the provisions of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976, or any other law for the time being in force;

(d) any warship, naval auxiliary or other ship owned or operated by an Administration and used on Government non-commercial service, and which is destined for recycling in a ship recycling facility operating in or within the territorial jurisdiction of India; and

(e) ship recycling facilities operating in India or within any area falling under the exclusive territorial jurisdiction of India.

2. *Definitions.*— (1) In this Act, unless the context otherwise requires,—

(a) “Administration” means the Government of the country whose flag the ship is entitled to fly, or under whose authority it is operating;

(b) “certificate of authorisation of ship recycling facility” means the certificate referred to in sub-section (6) of section 12;

(c) “certificate on inventory of hazardous materials” means the certificate referred to in section 8;

(d) “Competent Authority” means such Authority designated by the Central Government under section 4;

(e) “hazardous material” means any material or substance, which is liable to cause harm to human beings, other living creatures, plants, micro-organisms, property or the environment;

(f) “National Authority” means such Authority designated by the Central Government under section 3;

(g) “notification” means a notification published in the Official Gazette and the expressions “notify” or “notified” shall be construed accordingly;

(h) “prescribed” means prescribed by rules made under this Act;

(i) “ready for recycling certificate” means the certificate referred to in section 16;

(j) “regulations” means the regulations made by the National Authority under this Act;

(k) “ship” means a vessel and floating structure of any type whatsoever operating or having operated in the marine environment and includes submersibles, floating craft, floating platforms, self-elevating platforms, the floating storage units, and the like;

(l) “ship owner” means—

(i) a person or an association of persons or body of individuals or a company registered as the owner of the ship;

(ii) any organisation or a person such as the Manager or the Bareboat Charterer, who has assumed the responsibility for operation of the ship from the owner of the ship;

(iii) a company, which is registered as operator and is operating a ship owned by the Government; or

(iv) a person or an association of persons or company owning the ship for a limited period pending its sale or handing over to a ship recycling facility;

(m) “Ship Recycler” means the owner of the ship recycling facility or any other organisation or person who has assumed the responsibility for operation of the ship recycling facility and who has agreed to take over all duties and responsibilities imposed by or under this Act;

(n) “ship recycling” means the activity of dismantling of a ship at a ship recycling facility in order to recover components and materials for reprocessing and reuse, while taking care of hazardous and other materials and includes associated operations such as storage, treatment of components and materials on site, but not their further processing or disposal in separate facilities;

(o) “ship recycling facility” means a defined area that is a site, yard or facility used for the recycling of ships and meets such requirements as may be specified by the regulations;

(p) “ship recycling plan” means a plan specific to a ship developed by the ship recycling facility to recycle such a ship in safe and environmentally sound manner;

(q) “statement of acceptance” means a statement of acceptance referred to in sub-section (4) of section 20;

(r) “statement of completion” means a statement of completion referred to in section 23;

(s) “Surveyor” means a Surveyor as defined under clause (48) of section 3 of the Merchant Shipping Act, 1958 or any other person or body of persons as may be notified by the Central Government;

(t) “worker” means a person employed, directly or by or through any agency (including a contractor) with or without the knowledge of the principal employer, whether for remuneration or not, in any ship recycling, or in cleaning any part of the machinery or premises used for ship recycling, or in any other kind of work incidental to, or connected with, the ship recycling, or the subject of the ship recycling but does not include any member of the armed forces of the Union.

(2) The words and expressions used and not defined in this Act but defined in the—

(i) Explosives Act, 1884;	4 of 1884.
(ii) Inland Vessels Act, 1917;	1 of 1917.
(iii) Petroleum Act, 1934;	30 of 1934.
(iv) Factories Act, 1948;	63 of 1948.
(v) Merchant Shipping Act, 1958;	44 of 1958.
(vi) Atomic Energy Act, 1962;	33 of 1962.
(vii) Wildlife (Protection) Act, 1972;	53 of 1972.
(viii) Water (Prevention and Control of Pollution) Act, 1974;	6 of 1974.
(ix) Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976;	80 of 1976.
(x) Forest (Conservation) Act, 1980;	69 of 1980.
(xi) Air (Prevention and Control of Pollution) Act, 1981;	14 of 1981.
(xii) Environment (Protection) Act, 1986,	29 of 1986.

shall have the same meanings respectively assigned to them in those Acts.

CHAPTER II

Authorities under the Act

3. *Designation of National Authority.*— The Central Government shall, by notification, designate an officer not below the rank of Joint Secretary to the Government of India as the National Authority, which shall administer, supervise and monitor all activities relating to ship recycling under this Act.

4. *Designation of Competent Authority.*— The Central Government shall, by notification, designate an Authority to be called the Competent Authority, for performance of such duties within the geographical area or areas of expertise as may be prescribed.

CHAPTER III

Requirements for ships

5. *Non-application of provisions of this Chapter.*— Nothing contained in this Chapter shall apply to—

(a) any warship, naval auxiliary, or other ships owned or operated by the Government and used for Government non-commercial purpose;

(b) ships of less than five hundred gross tonnage:

Provided that the Central Government may notify appropriate measures, not impairing operations or operational capabilities of such ships to ensure, as far as practicable, that such ships act in a manner consistent with the provisions of this Act.

6. *Controls on hazardous materials.*— (1) No ship shall install or use such prohibited hazardous materials as may be notified by the Central Government:

Provided that the Central Government may, by notification and for the reasons specified therein, exempt certain class or category of ships from the provisions of sub-section (1).

(2) Every ship shall comply with such restrictions and conditions, as may be prescribed.

7. *Surveys.*— (1) The National Authority or such person or organisation, as the Central Government may by notification authorise, shall carry out following surveys of the ships—

(a) an initial survey before the issue of certificate on inventory of hazardous materials, so as to verify such requirements as may be prescribed;

(b) a renewal survey at intervals not exceeding five years as may be prescribed;

(c) an additional survey either general or partial, at the request of the ship owner after a change, replacement or significant repair of the structure, equipment, systems, fittings, arrangements or material;

(d) a final survey prior to the ship being taken out of service and before the recycling of the ship so as to verify such requirements as may be prescribed; and

(e) such other surveys as may be prescribed.

(2) The survey shall be conducted and a certificate to this effect shall be issued in accordance with the provisions of this Act and the rules or regulations made thereunder.

8. *Certificate on inventory of hazardous materials.*— (1) The owner of every new ship shall make an application to the National Authority for a certificate on inventory of hazardous materials for the purposes of this Act and such certificate shall be specific to each ship:

Provided that the existing ships on the date of commencement of this Act, and for which the certificate on inventory of hazardous materials had not been issued, the owner of such ship shall make an application to the National Authority within a period of five years from the date of commencement of this Act:

Provided further that a certificate on inventory of hazardous materials issued by any Administration shall be valid for the purposes of this Act.

(2) The terms and conditions, the format and the manner for granting the certificate on inventory of hazardous materials shall be such as may be prescribed.

(3) The certificate on inventory of hazardous materials shall be properly maintained and updated throughout the operational life of the ship, reflecting the new installations containing hazardous materials and relevant changes in the ship structure and equipment.

Explanation.— For the purposes of this sub-section, the expression “new installation” includes systems, equipment, insulation or other material installed on a ship after the date of coming into force of this Act.

(4) The certificate on inventory of hazardous materials shall be endorsed by the National Authority after successful completion of an additional survey conducted in accordance with clause (c) of sub-section (1) of section 7.

Explanation.— For the purposes of this section, the expressions—

(i) “existing ship” means a ship which is not a new ship;

(ii) “new ship” means a ship,—

(a) for which the building contract is placed on or after the date of coming into force of this Act; or

(b) other than the ship referred to in sub-clause (a), the keel of which is laid or which is at a similar stage of construction after six months from the date of coming into force of this Act; or

(c) which is to be delivered after thirty months from the date of coming into force of this Act,

and which is intended to be registered in India.

9. *Validity of certificate.*— The certificate referred to in sub-section (1) of section 8 shall be issued or renewed for such period, not exceeding five years, as may be prescribed:

Provided that where validity of certificate on inventory of hazardous material expires at a time when a ship is not in the port in which it is to be surveyed, the Administration may extend the period of validity of such certificate and this extension shall be granted only—

(a) for the purpose of allowing the ship to complete its voyage to the port in which it is to be surveyed; or

(b) in cases where it appears proper and reasonable to the Administration to do so:

Provided further that no certificate shall be extended for a period longer than three months, and a ship to which an extension is granted shall not, on its arrival on the port in which it is to be surveyed, be entitled by

virtue of such extension to leave that port without having the certificate renewed.

10. *Suspension or cancellation of certificate.*— The certificate on inventory of hazardous materials shall be liable to be suspended or cancelled by the National Authority in any of the following cases, namely:—

(i) if the ship, *prima facie*, does not comply with the particulars of the certificate;

(ii) where the inventory of hazardous materials is not properly maintained and updated with such changes in the ship structure and equipment as may be prescribed;

(iii) in case of transfer of the ship to the flag of another State;

(iv) if the survey specified by the Administration is not completed within the period specified in section 7; or

(v) if endorsement of certificate does not disclose,—

(a) conduct of an additional survey as required under section 7; or

(b) extension of the validity of the certificate required under section 9:

Provided that no certificate under this section shall be suspended or cancelled unless the owner of the ship has been given an opportunity of being heard.

CHAPTER IV

Ship recycling facility

11. *Authorisation of ship recycling facility.*— No Ship Recycler shall recycle a ship, unless the ship recycling facility is authorised as per the procedure laid down in section 12.

12. *Ship recycling facility management plan and procedure for authorisation of ship recycling facility.*— (1) A Ship Recycler seeking a certificate of authorisation for ship recycling facility from the Competent Authority or an organisation recognised by

it, shall prepare a ship recycling facility management plan as specified by the regulations and submit an application to the Competent Authority.

(2) Every application for authorisation under sub-section (1), shall be made to the Competent Authority in such form and manner and accompanied by such fee as may be prescribed.

(3) Every ship recycling facility engaged in recycling of ships, immediately before the commencement of this Act, shall apply for authorisation within sixty days from the date of such commencement.

(4) Subject to the provisions of sub-section (3), every ship recycling facility engaged in recycling of ships, immediately before the commencement of this Act shall cease to conduct any such recycling on the expiry of six months from the date of commencement of this Act unless such ship recycling facility has applied for authorisation and is so authorised or till such application is disposed of, whichever is earlier.

(5) No ship recycling facility shall be authorised under this Act unless the Competent Authority is satisfied that such facility maintains such equipment and standards as may be specified by the regulations.

(6) The Competent Authority shall, after holding an enquiry and after satisfying itself that the applicant has complied with all the requirements of this Act and the rules and the regulations made thereunder, grant a certificate of authorisation in such format as may be specified by the regulations.

(7) If, after an enquiry and after giving to the applicant an opportunity of being heard, the Competent Authority is satisfied that the applicant has not complied with the requirements of this Act, or the rules or regulations made thereunder, it shall, for reasons to be recorded in writing, reject the application for authorisation.

(8) Every certificate of authorisation for ship recycling facility shall be valid for such

period not exceeding five years as may be specified by the regulations.

(9) Every certificate of authorisation shall be renewed in such manner and after such period and on payment of such fee as may be prescribed.

(10) The Competent Authority shall undertake an annual audit of every ship recycling facility to satisfy compliance with the requirements of this Act, the rules and regulations made thereunder and forward such audit report to the National Authority.

13. *Suspension or cancellation of authorisation.*— (1) The Competent Authority may, whenever it considers necessary, for the reasons to be recorded in writing, conduct an enquiry or inspection of a ship recycling facility and issue a notice to the Ship Recycler to show cause as to why the authorisation of his ship recycling facility should not be suspended or cancelled for the reasons mentioned in the notice.

(2) The manner of enquiry or inspection by the Competent Authority shall be such as may be specified by the regulations.

(3) If the Competent Authority is satisfied that there has been a breach of the provisions of this Act or the rules or the regulations made thereunder, it may, without prejudice to any criminal action that it may take against such Ship Recycler, suspend or cancel the authorisation of his ship recycling facility:

Provided that no such authorisation shall be suspended or cancelled without giving an opportunity of being heard in the matter to the Ship Recycler.

(4) Notwithstanding anything contained in sub-sections (1) and (2), if the Competent Authority is of the opinion that it is necessary or expedient so to do in public interest, it may, for reasons to be recorded in writing, suspend or cancel the authorisation of any ship recycling facility without issuing any notice referred to in sub-section (1).

14. *Emergency preparedness and response.*— Every Ship Recycler shall maintain adequate measures

for emergency preparedness and response in accordance with the provisions of the Factories Act, 1948 in his ship recycling facility. 63 of 1948.

15. *Workers safety, training and insurance.*— (1) Every Ship Recycler shall provide adequate measures for safety, health, training and welfare of workers in his ship recycling facility and 'for this purpose, the provisions of the Factories Act, 1948 shall apply. 63 of 1948.

(2) Every Ship Recycler shall provide an individual or comprehensive insurance coverage for the regular and temporary workers in such manner as may be prescribed.

CHAPTER V

Process of recycling of ships

16. *Ready for recycling certificate.*— (1) The owner of a ship who intends to recycle his ship shall make an application to the National Authority for a ready for recycling certificate in such form, manner, and accompanied by such fee as may be specified by the regulations or the Administration concerned as per the procedure determined by such Administration.

(2) A ready for recycling certificate referred to in sub-section (1) may be issued after successful completion of a survey and shall be valid for a period of three months from the date of its issue:

Provided that the period of validity may be extended by the National Authority for such reasons as may be specified by the regulations or the Administration concerned as per the reasons determined by such administration.

(3) A ready for recycling certificate shall cease to be valid, if the condition of the ship does not correspond with the particulars of the certificate.

17. *Ship recycling plan.*— (1) No Ship Recycler shall recycle any ship without a ship

recycling plan prepared in accordance with the guidelines issued under sub-section (2) and approved by the Competent Authority.

(2) The National Authority may specify the guidelines for the preparation of a ship recycling plan for different categories of ships:

Provided that the Competent Authority may, after hearing the Ship Recycler, refuse to approve the ship recycling plan if it has reasons to believe that the plan does not comply with the guidelines specified by the National Authority.

(3) Where the Competent Authority fails to convey its decision regarding approval of the ship recycling plan within fifteen days of its submission, the plan shall be deemed to have been approved.

18. *General requirements.*— (1) No ship shall be recycled without the written permission or, as the case may be, the deemed permission of the Competent Authority obtained in such manner as may be specified by the regulations.

(2) Any ship registered in India and intended to be recycled outside the territory of India shall be recycled only at a ship recycling facility duly authorised by such authority as may be specified by the regulations.

19. *Obligations on part of ship owner.*— (1) The owner of a ship which is intended to be recycled within the territory of India shall—

(i) give an advance intimation to the Maritime Rescue Co-ordination Centre and the Competent Authority about the date of arrival, in such manner as may be prescribed;

(ii) clear all port dues, if any, upon arriving at the port and submit the documents as specified in the regulations; and

(iii) keep the ship clear of cargo residues and shall minimise any remaining fuel oil and wastes on board.

(2) The owner of a tanker which is intended to be recycled within the territory of India shall fulfil such conditions for safe-for-entry or safe-for-hotwork or both, as specified by the regulations.

20. *Procedure for grant of permission for ship recycling.*— (1) The Competent Authority shall grant permission for recycling only after physical inspection of the ship and for this purpose it may requisition the services of representatives of such agencies as may be prescribed.

(2) Where the Competent Authority fails to convey its decision regarding grant of permission within fifteen days of receipt of application, the permission shall be deemed to have been granted.

(3) The Competent Authority may deny permission for recycling for reasons to be recorded in writing after affording an opportunity of being heard to the ship owner.

(4) The Ship Recycler, on receipt of a copy of permission to recycle the ship, shall issue a statement of acceptance to the ship owner under intimation to the Competent Authority in such form and manner as may be specified by the regulations and thereafter the ship owner may get the ship de-registered.

21. *Safe and environmentally sound management of hazardous materials.*— Every Ship Recycler shall,—

(a) ensure safe and environmentally sound removal and management of hazardous materials from a ship; and

(b) comply with such requirements related to basic infrastructure facilities including those related to environmentally safe disposal or management of wastes and hazardous materials, in such manner as may be specified by the regulations.

22. *Obligation on Ship Recycler to take measures for protection of environment.*— (1) Every Ship Recycler shall,—

(i) ensure that there is no damage caused to the environment in any form due

to the recycling activities at the ship recycling facility; and

(ii) take necessary measures for protection of the environment.

(2) In case of oil spill in the facility, the Ship Recycler shall be served a notice by the Competent Authority to take remedial action in such manner as may be specified by the regulations.

(3) For contravention of the provisions of this section, the Ship Recycler shall be liable to pay such environmental damages and cleanup operation compensation in such manner as may be prescribed.

CHAPTER VI

Reporting requirements

23. *Statement of completion.*— When a ship is recycled in accordance with the provisions of this Act, a statement of completion containing such particulars as may be specified by the regulations shall be submitted by the Ship Recycler to the Competent Authority.

24. *Report to National Authority.*— The Competent Authority shall give report to the National Authority, from time to time, which shall include information comprising the list of approved facilities, list of ships which have not complied with the provisions of this Act and action taken on such ships and list of ships recycled, as may be required by the National Authority.

CHAPTER VII

Appeals

25. *Appeal against decision of Competent Authority.*— (1) Any person who is aggrieved by any decision made by the Competent Authority or the authorised surveyor or any authorised organisation or authorised person may file an appeal to the National Authority within a period of thirty days from the date of receipt of such decision in such manner as may be prescribed:

Provided that in respect of matters under any other law for the time being in force for

which an appellate provision exists, in such law, then the appellant shall file the appeal to the authority specified in such law.

(2) The appeal filed under sub-section (1) shall be disposed of in such manner as may be prescribed.

26. *Appeal against decision of National Authority.*— (1) Any person who is aggrieved by any decision made by the National Authority may file an appeal to the Central Government within a period of thirty days from the date of receipt of such decision in such manner as may be prescribed.

(2) The appeal filed under sub-section (1) shall be disposed of in such manner as may be prescribed.

CHAPTER VIII

Powers and functions of National Authority,
Competent Authority and Central Government

27. *Power to search and seize records, etc.*— (1) If the National Authority or the Competent Authority has reason to believe that an offence under this Act has been or is being committed at any ship recycling facility, such Authority or any officer authorised there for in this behalf may, subject to the rules and regulations made under this Act, enter and search at all reasonable times with such assistance, if any, as such Authority or officer considers necessary, such ship recycling facility and examine any record, register, document, equipment or any other material object found therein and seize the same if such Authority or officer has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.

(2) The provisions of the Code of Criminal Procedure, 1973 relating to searches and seizures shall, so far as may be, apply to every search or seizure made under this Act.

28. *Power to inspect, dismiss, exclude or detain a ship.*— (1) The National Authority or Administration or any Survey authorised by it, may inspect any ship, at a reasonable

time, while at any port or within Indian waters:

Provided that any such inspection shall be only for the purpose of verifying that there is on board either a certificate on inventory of hazardous materials or a ready for recycling certificate.

(2) The National Authority may dismiss, exclude or detain the ship from its ports or within Indian waters in case of,—

(a) failure to carry a valid certificate on inventory of hazardous materials or a valid ready for recycling certificate or both, as applicable; or

(b) non-compliance with the control measures for hazardous materials notified by the Central Government.

(3) A ship detained under sub-section (2) shall remain under detention till such time until the non-compliance is rectified or till such time until permission is granted by the National Authority for such detained ship to proceed to an appropriate repair yard or port, without danger to the ship, environment or persons on board.

(4) Any Commissioned Officer of the Indian Navy or Indian Coast Guard or any Port Officer, Pilot, Harbour Master, Conservator of Port or Customs Collector may detain the ship, the detention of which is authorised or ordered to be detained under this Act.

29. *Power to exempt.*— (1) Notwithstanding anything contained in this Act, the Central Government may, by order in writing and upon such conditions, if any, as it may think fit to impose, exempt any vessel or any class thereof, ship recycling facility or Ship Recycler from any specified requirement contained in or prescribed in pursuance of this Act or dispense with the observance of any such requirement, if it is satisfied that the requirement has been substantially complied with or that compliance with the requirement is or ought to be dispensed within the circumstances of the case.

(2) Where an exemption granted under sub-section (1) is subject to any conditions,

a breach of any of those conditions shall, without prejudice to any other remedy, be deemed to be an offence under this Act.

30. *Act not to apply to certain ships.*— The provisions of this Act shall not apply to such category of Indian ships, as the Central Government may, from time to time, by notification specify:

Provided that such ships shall be required to act in such manner as may be prescribed.

CHAPTER IX

Offences, Penalties and Compensation

31. *Penalty for contravention of provisions of Act or rules or regulations.*— (1) Whoever installs or uses any prohibited hazardous material in a ship in contravention of the provisions of this Act or rules or regulations made thereunder shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five lakh rupees or with both.

(2) Whoever contravenes the provisions of section 12 shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten lakh rupees or with both.

(3) Whoever contravenes the provisions of sub-section (1) of section 17 shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten lakh rupees or with both.

(4) Whoever contravenes the provisions of sub-section (1) of section 18, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten lakh rupees or with both.

(5) Whoever fails to ensure safe and environmentally sound removal and management of any hazardous material from a ship in accordance with the regulations shall be punishable with an imprisonment for a term which may extend to six months or with fine which may extend to five lakh rupees or with both.

(6) Whoever fails to respond to the notice issued for oil spill under sub-section (2) of section 22 shall be punishable—

(i) with a fine which may extend to five lakh rupees in case of non response within twelve hours of issuance of first notice;

(ii) with a fine which may extend to ten lakh rupees in case of non response within twenty-four hours of issue of second notice; and

(iii) with an imprisonment which may extend to three months and with a fine which may extend to ten lakh rupees in case of non response beyond twenty-four hours of issue of third notice.

32. *Penalty for contravention of provisions of this Act or rules or regulations for which no specific punishment is provided.*— Whoever contravenes any of the provisions of this Act or any rules or regulations made thereunder, for which no specific punishment has been provided in this Act, shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to two lakh rupees or with both and, in the case of a continuing contravention, with an additional fine which may extend to five thousand rupees for every day during which such contravention continues after the conviction for the first such contravention.

33. *Punishment for other offences.*— (1) If any ship, after detention or after service of any notice or order for such detention, proceeds to sea before it is released by the National Authority, the owner or master of the ship shall be guilty of an offence under this Act.

(2) Whoever restrains or detains or forcibly takes to sea, any person authorised under this Act to detain or survey the ship, on the execution of his duty, the owner, master or agent of such ship shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea and shall also be guilty of an offence under this Act.

34. *Offences by companies.*— (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section,—

(a) “company” means any body corporate and includes a co-operative society, firm or other association of individuals; and

(b) “director” means a whole time director in the company and in relation to a firm means a partner in the firm.

35. *Offences to be non-cognizable, bailable and compoundable.*— Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act shall be non-cognizable, bailable and compoundable. 2 of 1974.

36. *Cognizance of offences.*— No court shall take cognizance of an offence under this Act except on a complaint made by—

(a) the Central Government;

(b) the National Authority or an officer authorised in this behalf; or

(c) the Competent Authority or an officer authorised in this behalf.

37. *Amount payable by owner, master or agent.*— When any owner or master or agent is convicted of an offence under sub-section (2) of section 33, the amount payable on account of expenses by such owner or master or agent shall be determined and recovered in such manner as may be prescribed.

38. *Place of trial and jurisdiction of court.*— Any person committing any offence under this Act or any rules made thereunder, may be tried for such offence in any place in which he may be found, or in any Court which the Central Government may, by notification, direct in this behalf, or in any Court in which he might be tried under any other law for the time being in force.

39. *Compensation.*— (1) Where a ship is unduly detained or delayed as a result of an inspection or investigation without any reasonable cause, then, such ship shall be entitled to compensation for any loss or damage suffered thereby.

(2) The rate of compensation referred to in sub-section (1), the method of calculation and the manner of payment of such compensation shall be such as may be prescribed.

(3) For the purpose of adjudging compensation under this section, the Central Government may, by notification, nominate an officer of the Central Government, not below the rank of Joint Secretary to the Government of India, to be an adjudicating officer for holding an inquiry in the prescribed manner, after giving any person concerned an opportunity of being heard.

CHAPTER X

Miscellaneous

40. *Delegation of powers.*— (1) The Central Government may, by general or special order, subject to such conditions and restrictions as may be provided in such order, direct that any power, authority or jurisdiction exercisable by it under or in relation to a provision of this Act (except the power to make rules), be exercisable also by the National Authority or Competent Authority or such other officer not below the rank of Joint Secretary to the Government of India.

(2) The National Authority or the Competent Authority may, with the previous approval of the Central Government, by general or special order, subject to such conditions and restrictions as may be provided in such order, direct that any power, authority or jurisdiction exercisable by it under or in relation to a provision of this Act (except the power to make regulations), be exercisable also by such officer or other authority as may be specified in such order.

41. *Act not in derogation of any other law.*— The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

42. *Power to make rules.*— (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the duties of Competent Authority within the geographical area or areas of expertise under section 4;

(b) the restrictions and conditions imposed on installation or use of any hazardous material, to be complied by every ship under sub-section (2) of section 6;

(c) the requirements to be verified for the survey of ships under clauses (a), (b) and (d) of sub-section (1) of section 7;

(d) the other conditions to be required for the survey of ships under clause (e) of sub-section (1) of section 7;

(e) the terms and conditions, validity, the format and manner for granting the certificate on inventory of hazardous materials under sub-section (2) of section 8 and section 9;

(f) the changes in ship structures and equipment under clause (ii) of section 10;

(g) the form, fees and the manner of making the application for authorisation of ship recycling facility under sub-section (2) of section 12; .

(h) the manner, period and fees for renewal of certificate of authorisation under sub-section (9) of section 12;

(i) the manner of providing individual or comprehensive insurance coverage for the regular and temporary workers under sub-section (2) of section 15;

(j) the manner of advance intimation about the arrival of ship under sub-section (1) of section 19;

(k) the requisition of the services of representatives of agencies for grant of permission under sub-section (1) of section 20;

(l) the liability of the Ship Recycler for environmental damages under sub-section (3) of section 22;

(m) the manner of filing an appeal against the orders of the Competent Authority and the manner of disposal of such appeal under section 25;

(n) the manner of filing an appeal against the orders of National Authority and the manner of disposal of such appeal under section 26;

(o) the manner in which the ships are required to act for non-application of the provisions of the Act under the proviso to section 30;

(p) the manner of determination and recovery of amount payable under section 37;

(q) the rate of compensation, method of calculation and the manner of compensation entitled by a ship under sub-section (2) of section 39;

(r) the manner of holding an inquiry for the purpose of payment of compensation under sub-section (3) of section 39; and

(s) any other matter which is to be, or may be, prescribed or in respect of which provision is to be made by rules.

43. *Power to make regulations.*— (1) The National Authority with the previous approval of the Central Government, by notification in the Official Gazette, may make regulations not inconsistent with the provisions of this Act and the rules made thereunder.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the requirements relating to ship recycling facility under clause (o) of sub-section (1) of section 2;

(b) the manner of preparation of a ship recycling facility management plan under sub-section (1) of section 12;

(c) the equipment and other standards to be maintained by the Ship Recycler under sub-section (5) of section 12;

(d) the form in which a certificate of authorisation shall be issued under sub-section (6) of section 12;

(e) the period of validity of certificate of authorisation for ship recycling facility under sub-section (8) of section 12;

(f) the manner of enquiry or inspection by the Competent Authority under sub-section (2) of section 13;

(g) the manner of making an application to the National Authority for a ready for recycling certificate under sub-section (1) of section 16;

(h) the manner and format for issuing of the ready for recycling certificate under sub-section (2) of section 16;

(i) the manner of obtaining the written permission of the Competent Authority under sub-section (1) of section 18;

(j) the authority to authorise the ship recycling facility under sub-section (2) of section 18;

(k) submission of documents by ship owner under clause (ii) of sub-section (1) of section 19;

(l) the conditions for safe-for-entry or safe-for-hotwork or both under sub-section (2) of section 19;

(m) the form and manner of issue of statement of acceptance by the Ship Recycler under sub-section (4) of section 20;

(n) the requirements relating to removal and management of hazardous materials and basic infrastructure to be complied with by the Ship Recycler under clause (b) of section 21;

(o) the manner of serving of notice by the Competent Authority to a Ship Recycler in case of oil spill under sub-section (2) of section 22;

(p) the manner of submission of statement of completion by the Ship Recycler under section 23; and

(q) any other matter which is required to be, or may be, specified by regulations.

44. *Laying of rules and regulations.*— Every rule made by the Central Government and every regulation made by the National Authority under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such

modified form or be of no effect, as the case may be; however, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

45. *Protection of action taken in good faith.*— No suit, prosecution or other legal proceeding shall lie against the Central Government or the State Government or the National Authority or the Competent Authority or any officer authorised by the Central Government or the State Government or the National Authority or the Competent Authority for anything done in good faith or intended to be done in pursuance of the provisions of this Act.

46. *Removal of difficulties.*— (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of three years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Notification

10/4/2019-LA

The Taxation Laws (Amendment) Act, 2019 (Central Act No. 46 of 2019), which has been passed by Parliament and assented to by the President on 11-12-2019 and published in the Gazette of India, Extraordinary, Part II, Section 1 dated 12-12-2019, is hereby published for the general information of the public.

D. S. Raut Dessai, Joint Secretary (Law).

Porvorim, 21st May, 2020.

**THE TAXATION LAWS (AMENDMENT)
ACT, 2019**

AN

ACT

further to amend the Income-tax Act, 1961 and to amend the Finance (No. 2) Act, 2019.

Be it enacted by Parliament in the Seventieth Year of the Republic of India as follows:-

CHAPTER I

Preliminary

1. *Short title and commencement.*— (1) This Act may be called the Taxation Laws (Amendment) Act, 2019.

(2) Save as otherwise provided, it shall be deemed to have come into force on the 20th day of September, 2019.

CHAPTER II

Amendments in the Income-Tax Act, 1961

2. *Amendment of Section 92BA.*— In section 92BA of the Income-tax Act, 1961 (hereafter in this Chapter 43 of 1961, referred to as the Income-tax Act), after clause (v), the following clause shall be inserted, with effect from the 1st day of April, 2020, namely:—
43 of 1961.

“(va) any business transacted between the persons referred to in sub-section (6) of section 115BAB;”.

3. *Amendment of section 115BA.*— In section 115BA of the Income-tax Act, with effect from the 1st day of April, 2020,—

(a) for the marginal heading “Tax on income of certain domestic companies”, the marginal heading “Tax on income of certain manufacturing domestic companies” shall be substituted;

(b) in sub-section (1), for the words “subject to the other provisions of this Chapter”, the words, figures and letters “subject to the other provisions of this Chapter, other than those mentioned under

section 115BAA and section 115BAB” shall be substituted;

(c) in sub-section (4), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that where the person exercises option under section 115BAA, the option under this section may be withdrawn.”.

4. *Insertion of new sections 115BAA and 115BAB.*— After section 115BA of the Income-tax Act, the following sections shall be inserted with effect from the 1st day of April, 2020, namely:—

‘115BAA. *Tax on income of certain domestic companies.*— (1) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, other than those mentioned under section 115BA and section 115BAB, the income-tax payable in respect of the total income of a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2020, shall, at the option of such person, be computed at the rate of twenty-two per cent., if the conditions contained in sub-section (2) are satisfied:

Provided that where the person fails to satisfy the conditions contained in sub-section (2) in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply, as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.

(2) For the purposes of sub-section (1), the total income of the company shall be computed,—

(i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-

clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35 or section 35AD or section 35CCC or section 35CCD or under any provisions of Chapter VI-A under the heading “C.—Deductions in respect of certain incomes” other than the provisions of section 80JJAA;

(ii) without set off of any loss carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in clause (i);

(iii) without set off of any loss or allowance for unabsorbed depreciation deemed so under section 72A, if such loss or depreciation is attributable to any of the deductions referred to in clause (i); and

(iv) by claiming the depreciation, if any, under any provision of section 32, except clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed.

(3) The loss and depreciation referred to in clause (ii) and clause (iii) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year:

Provided that where there is a depreciation allowance in respect of a block of asset which has not been given full effect to prior to the assessment year beginning on the 1st day of April, 2020, corresponding adjustment shall be made to the written down value of such block of assets as on the 1st day of April, 2019 in the prescribed manner, if the option under sub-section (5) is exercised for a previous year relevant to the assessment year beginning on the 1st day of April, 2020.

(4) In case of a person, having a Unit in the International Financial Services Centre, as referred to in sub-section (1A) of section 80LA, which has exercised option under sub-section (5), the conditions contained in sub-section (2) shall be modified to the extent that the deduction under section 80LA shall be available to such Unit subject to fulfilment

of the conditions contained in the said section.

Explanation.— For the purposes of this sub-section, the term “Unit” shall have the same meaning as assigned to it in clause (zc) of section 2 of the Special Economic Zones Act, 2005.

28 of 2005.

(5) Nothing contained in this section shall apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (1) of section 139 for furnishing the returns of income for any previous year relevant to the assessment year commencing on or after the 1st day of April, 2020 and such option once exercised shall apply to subsequent assessment years:

Provided that in case of a person, where the option exercised by it under section 115BAB has been rendered invalid due to violation of conditions contained in sub-clause (ii) or sub-clause (iii) of clause (a), or clause (b) of sub-section (2) of said section, such person may exercise option under this section:

Provided further that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

115BAB. *Tax on income of new manufacturing domestic companies.*— (1) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, other than those mentioned under section 115BA and section 115BAA, the income-tax payable in respect of the total income of a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2020, shall, at the option of such person, be computed at the rate of fifteen per cent., if the conditions contained in sub-section (2) are satisfied:

Provided that where the total income of the person, includes any income, which has neither been derived from nor is incidental

to manufacturing or production of an article or thing and in respect of which no specific rate of tax has been provided separately under this Chapter, such income shall be taxed at the rate of twenty-two per cent. and no deduction or allowance in respect of any expenditure or allowance shall be allowed in computing such income:

Provided further that the income-tax payable in respect of the income of the person deemed so under second proviso to sub-section (6) shall be computed at the rate of thirty per cent.:

Provided also that the income-tax payable in respect of income being short term capital gains derived from transfer of a capital asset on which no depreciation is allowable under the Act shall be computed at the rate of twenty-two per cent.:

Provided also that where the person fails to satisfy the conditions contained in sub-section (2) in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply to the person as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.

(2) For the purposes of sub-section (1), the following conditions shall apply, namely:—

(a) the company has been set-up and registered on or after the 1st day of October, 2019, and has commenced manufacturing or production of an article or thing on or before the 31st day of March, 2023 and,—

(i) the business is not formed by splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of a company, business of which is formed as a result of the re-establishment, reconstruction or revival by the person of the business of any such

undertaking as is referred to in section-33B, in the circumstances and within the period specified in the said section;

(ii) does not use any machinery or plant previously used for any purpose.

Explanation 1.— For the purposes of sub-clause (ii), any machinery or plant which was used outside India by any other person shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely:—

(A) such machinery or plant was not, at any time previous to the date of the installation used in India;

(B) such machinery or plant is imported into India from any country outside India; and

(C) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of machinery or plant by the person.

Explanation 2.— Where in the case of a person, any machinery or plant or any part thereof previously used for any purpose is put to use by the company and the total value of such machinery or plant or part thereof does not exceed twenty per cent. of the total value of the machinery or plant used by the company, then, for the purposes of sub-clause (ii) of this clause, the condition specified therein shall be deemed to have been complied with;

(iii) does not use any building previously used as a hotel or a convention centre, as the case may be, in respect of which deduction under section 80-ID has been claimed and allowed.

Explanation.— For the purposes of this sub-clause, the expressions “hotel” and

“convention centre” shall have the meanings respectively assigned to them in clause (a) and clause (b) of sub-section (6) of section 80-ID;

(b) the company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it.

Explanation.—For the removal of doubts, it is hereby clarified that the business of manufacture or production of any article or thing referred to in clause (b) shall not include business of,—

(i) development of computer software in any form or in any media;

(ii) mining;

(iii) conversion of marble blocks or similar items into slabs;

(iv) bottling of gas into cylinder;

(v) printing of books or production of cinematograph film; or

(vi) any other business as may be notified by the Central Government in this behalf; and

(c) the total income of the company has been computed,—

(i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35 or section 35AD or section 35CCC or section 35CCD or under any provisions of Chapter VI-A under the heading “C.—Deductions in respect of certain incomes” other than the provisions of section 80JJAA;

(ii) without set off of any loss or allowance for unabsorbed depreciation deemed so under section 72A where

such loss or depreciation is attributable to any of the deductions referred to in sub-clause (i).

Explanation.—For the removal of doubts, it is hereby clarified that in case of an amalgamation, the option under sub-section (7) shall remain valid in case of the amalgamated company only and if the conditions contained in sub-section (2) are continued to be satisfied by such company; and

(iii) by claiming the depreciation under the provision of section 32, except clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed.

(3) The loss referred to in sub-clause (ii) of clause (c) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

(4) If any difficulty arises regarding fulfilment of the conditions contained in sub-clause (ii) or sub-clause (iii) of clause (a) of sub-section (2) or clause (b) of said sub-section, as the case may be, the Board may, with the approval of the Central Government, issue guidelines for the purpose of removing the difficulty and to promote manufacturing or production of article or thing using new plant and machinery.

(5) Every guideline issued by the Board under sub-section (4) shall be laid before each House of Parliament, and shall be binding on the person, and the income-tax authorities subordinate to it.

(6) Where it appears to the Assessing Officer that, owing to the close connection between the person to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the person more than the ordinary profits which might be expected to arise in such business, the Assessing Officer shall, in computing the profits and gains of such business for the purposes of this section, take the amount of

profits as may be reasonably deemed to have been derived therefrom:

Provided that in case the aforesaid arrangement involves a specified domestic transaction referred to in section 92BA, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in clause (ii) of section 92F:

Provided further that the amount, being profits in excess of the amount of the profits determined by the Assessing Officer, shall be deemed to be the income of the person.

(7) Nothing contained in this section shall apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (1) of section 139 for furnishing the first of the returns of income for any previous year relevant to the assessment year commencing on or after 1st day of April, 2020 and such option once exercised shall apply to subsequent assessment years:

Provided that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

Explanation.—For the purposes of section 115BAA and this section, the expression “unabsorbed depreciation” shall have the meaning assigned to it in clause (b) of sub-section (7) of section 72A.’

5. *Amendment of Section 115JAA.*— In section 115JAA of the Income-tax Act, after sub-section (7), the following sub-section shall be inserted with effect from the 1st day of April, 2020, namely:—

“(8) The provisions of this section shall not apply to a person who has exercised the option under section 115BAA.”.

6. *Amendment of Section 115JB.*— In section 115JB of the Income-tax Act, with effect from the 1st day of April, 2020,—

(a) in sub-section (1), the following proviso shall be inserted, namely:—

“Provided that for the previous year relevant to the assessment year

commencing on or after the 1st day of April, 2020, the provisions of this sub-section shall have effect as if for the words “eighteen and one-half per cent.” occurring at both the places, the words “fifteen per cent.” had been substituted.”;

(b) for sub-section (5A), the following sub-section shall be substituted, namely:—

“(5A) The provisions of this section shall not apply to,—

(i) any income accruing or arising to a company from life insurance business referred to in section 115B;

(ii) a person who has exercised the option referred to under section 115BAA or section 115BAB.”.

7. *Amendment of section 115QA.*— In section 115QA of the Income-tax Act, in sub-section (1), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 5th day of July, 2019, namely:—

“Provided that the provisions of this sub-section shall not apply to such buy-back of shares (being the shares listed on a recognised stock exchange), in respect of which public announcement has been made on or before the 5th day of July, 2019 in accordance with the provisions of the Securities and Exchange Board of India (Buy-back of Securities) Regulations, 2018 made under the Securities and Exchange Board of India Act, 1992. 15 of 1992.

CHAPTER III

Amendments in the Finance (No. 2) Act, 2019

8. *Amendment of Act No. 23 of 2019.*— In section 2 of the Finance (No. 2) Act, 2019 [hereafter in this Chapter referred to as the Finance (No. 2) Act], in sub-section (9), with effect from the 1st day of April, 2019,—

(a) in the second proviso, for the words “First Schedule”, the words, figures and letters “First Schedule, except in case of a domestic company whose income is chargeable to tax under section 115BAA or section 115BAB of the Income-tax Act” shall be inserted and shall be deemed to have been inserted;

(b) in the third proviso,—

(i) in clause (a) for the words “the Income-tax Act” the words, figures and letters “the Income-tax Act, not having any income under section 115AD of the Income-tax Act” shall be inserted and shall be deemed to have been inserted;

(ii) after clause (a), the following clause shall be inserted and shall be deemed to have been inserted, namely:—

‘(aa) in the case of individual or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act having income under section 115AD of the Income-tax Act,—

(i) at the rate often per cent. of such “advance tax”, where the total income exceeds fifty lakh rupees, but does not exceed one crore rupees;

(ii) at the rate of fifteen per cent. of such “advance tax”, where the total income exceeds one crore rupees but does not exceed two crore rupees;

(iii) at the rate of twenty-five per cent. of such “advance tax”, where the total income [excluding the income of the nature referred to in clause (b) of sub-section (1) of section 115AD of the Income-tax Act] exceeds two crore rupees but does not exceed five crore rupees;

(iv) at the rate of thirty-seven per cent. of such “advance tax”, where the total income [excluding the income of the nature referred to in clause (b) of sub-section (1) of section 115AD of the Income-tax Act] exceeds five crore rupees;

(v) at the rate of fifteen per cent. of such “advance tax”, where the total income [including the income of the nature referred to in clause (b) of sub-section (1) of section 115AD of the Income-tax Act] exceeds two crore rupees but is not covered in sub-clauses (iii) and (iv):

Provided that in case where the total income includes any income chargeable under clause (b) of sub-section (1) of section 115AD of the Income-tax Act, the rate of surcharge on the advance tax calculated on that part of income shall not exceed fifteen per cent.;

(iii) in clause (c), in the opening portion, for the words “domestic company”, the words, figures and letters “domestic company except such domestic company whose income is chargeable to tax under section 115BAA or section 115BAB of the Income-tax Act,” shall be inserted and shall be deemed to have been inserted;

(c) in the fourth proviso, for the words, brackets and letter “in (a) above”, the words, brackets and letters “in (c) and (aa) above” shall be substituted;

(d) after the eighth proviso, the following proviso shall be inserted, namely:—

“Provided also that in case of every domestic company whose income is chargeable to tax under section 115BAA or section 115BAB of the Income-tax Act, the “advance tax” computed under the first proviso shall be increased by a surcharge, for the purposes of the Union, calculated at the rate of ten per cent. of such “advance tax”.”.

9. *Amendment of Part II of First Schedule.*—
In the First Schedule of the Finance (No. 2) Act,—

(A) in PART II, under the sub-heading “Surcharge on income-tax”, in paragraph (i), in clause (a), with effect from the 1st day of April, 2019,—

(i) in sub-clauses I and II, after the words “aggregate of such incomes”, the brackets, words, figures and letters “(including the income under the provisions of section 111A and section 112A of the Income-tax Act)” shall be inserted and shall be deemed to have been inserted;

(ii) in sub-clauses III and IV, after the words “aggregate of such incomes”, the brackets, words, figures and letters “(excluding the income under the provisions of section 111A and section 112A of the Income-tax Act)” shall be inserted and shall be deemed to have been inserted;

(iii) after sub-clause IV, the following sub-clause shall be inserted and shall be deemed to have been inserted, namely:—

“V. at the rate of fifteen per cent. of such tax, where the income or aggregate of the such incomes (including income under the provisions of section 111A and section 112A of the Income-tax Act) paid or likely to be paid and subject to the deduction exceeds two crore rupees, but is not covered under sub-clauses III and IV):

Provided that in case where the total income includes any income chargeable under section 111A and section 112A of the Income-tax Act, the rate of surcharge on the amount of Income-tax deducted in respect of that part of income shall not exceed fifteen per cent.;

(B) in PART III, in Paragraph A, under the sub-heading “Surcharge on income-tax”, after the opening portion,—

(i) in clauses (a) and (b), after the words “having a total income”, the brackets, words, figures and letters “(including the income under the provisions of section 111A and section 112A)” shall be inserted;

(ii) in clauses (c) and (d), after the words “having a total income”, the brackets, words, figures and letters “(excluding the income under the provisions of section 111A and section 112A)” shall be inserted;

(iii) after clause (d) and before the proviso, the following clause shall be inserted, namely:—

“(e) having a total income (including income under the provisions of section 111A and section 112A) exceeding two

crore rupees, but is not covered under clauses (c) and (d), shall be applicable at the rate of fifteen per cent. of such income-tax:

Provided that in case where the total income includes any income chargeable under section 111A and section 112A of the Income-tax Act, the rate of surcharge on the amount of Income-tax computed in respect of that part of income shall not exceed fifteen per cent.;”,.

10. *Repeal and savings.*— (1) The Taxation Laws (Amendment) Ord. Ordinance, 2019 is hereby repealed. 15 of 2019.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.



Department of Planning, Statistics & Evaluation

Directorate of Planning, Statistics & Evaluation

Order

DPSE/I/ADMN/Creation/Part-I/2019/755

Read: Order No. DPSE/I/ADMN/Creation/2019/1955 dated 26-11-2019

In supersession of all the previous orders for revival/creation of various posts, Government is pleased to indicate the total sanctioned staff strength for Directorate of Planning, Statistics and Evaluation (DPSE) as under for the next five years:

Sr. No.	Designation of the post	Pay Scale as per 7th Pay Commission	Total sanctioned strength of D.P.S.E.
1	2	3	4
Non Ministerial (Non-Lapsable) Posts (A)			
1.	Director		01
2.	Joint Director	Level 11 (67700-208700)	03
3.	Deputy Director	Level 10 (56100-177500)	03
4.	Deputy Director (Admn.)	Level 10 (56100-177500)	01*
5.	Statistical Officer	Level 7 (44900-142400)	04
6.	Research Assistant	Level 6 (35400-112400)	11
7.	Statistical Assistant	Level 5 (29200-92300)	26
8.	Investigator	Level 4 (25500-81100)	47
Sub total (A)			96

Sr. No.	Designation of the post	Pay Scale as per 7th Pay Commission	Total sanctioned strength of D.P.S.E.
1	2	3	4
Ministerial (Lapsable) Posts (B)			
1.	Head Clerk	Level 6 (35400-112400)	02
2.	Accountant	Level 6 (35400-112400)	01**
3.	Jr. Stenographer	Level 4 (25500-81100)	03
4.	Upper Divisional Clerk	Level 4 (25500-81100)	12
5.	Lower Divisional Clerk	Level 2 (19900-63200)	30
6.	Data Entry Operator	Level 2 (19900-63200)	01
7.	Driver	Level 2 (19900-63200)	04
8.	Gesterner Operator	Level 2 (19900-63200)	01
9.	Multi Tasking Staff	Level 1 (18000-56900)	10
10.	Night Watchman	Level 1 (18000-56900)	01
Sub total: (B)			65
Total (A+B)			161

As per the recommendation and approval of the High Level Empowered Committee (H.L.E.C.), the following posts shall stand abolished, upon superannuation/retirement of the incumbent or upon the post falling vacant (for whatever reasons).

Sr. No.	Designation of the post [Ministerial (Lapsable) Posts]	Name of the Official Holding the post	Remarks
1.	Data Entry Operator	Shri Alex C. Fernandes	On superannuation
2.	Gesterner Operator	Shri Pradeep B. Chatribin	On superannuation
3.	Night Watchman	Shri Shivram S. Pandit	On promotion/ /superannuation

Note: * (Filled from Goa Civil Service Cadre)

** (Filled from Accounts Cadre)

1. The existing strength of Drivers shall be continued, until further assessment of the vehicle fleet and requirement of the department and any vacancies arising during the interim period shall not be filled up on regular basis.

2. This issues with the approval of the High Level Empowered Committee (H.L.E.C.) constituted with the approval of the Council of Ministers in the XXth meeting held on 08-11-2017 vide Order No. 09/10/HLEC/2018-ARD dated 17-07-2017 issued by Administrative Reforms Department, Secretariat, Porvorim.

3. Approval of the High Level Empowered Committee (H.L.E.C.) is conveyed vide letter No. 9/57/IDCO/2019-ARD/244 dated 17-07-2019 & letter No. 9/57/IDCO/2019-ARD/428 dated 22-11-2019 issued by the Department of Administrative Reforms, Secretariat, Porvorim.

4. This has the approval of the Government vide No. 1673/F dated 09-03-2021.

5. This supersedes the earlier Order No. DPSE/I/ADMN/Creation/2019/1955 dated 26-11-2019.

By order and in the name of the Governor of Goa.

Dr. Y. Durga Prasad, Director & ex officio Jt. Secretary (Planning).

Porvorim, 5th April, 2021.

Order

DPSE/I/ADMN/Creation/Part-I/2019/756

Read : Order No. DPSE/I/ADMN/Creation/2019/1954 dated 26-11-2019.

In supersession of all the previous orders for revival/creation of various Non Ministerial posts (Non-Lapsable), Government is pleased to indicate the total sanctioned staff strength of Goa Common Statistical Cadre for Directorate of Planning, Statistics and Evaluation (DPSE) and in various Departments as detailed below for the next five years:

Sr. No	Designation of the post	Pay Scale as per 7th Pay Commission	Various technical posts sanctioned in the Departments	Total sanctioned strength of Goa Common Statistical Cadre
1	2	3	4	5
1.	Director		Directorate of Planning, Statistics & Evaluation	01
Total sanctioned post of Director				01
2.	Joint Director	Level 11 (67700-208700)	Directorate of Planning, Statistics & Evaluation	03
Total sanctioned posts of Jt. Director				03
3.	Deputy Director	Level 10 (56100-177500)	Directorate of Planning, Statistics & Evaluation	04**
			Directorate of Health Services	01
			Directorate of Fisheries	01
Total sanctioned posts of Dy. Director				06
4.	Statistical Officer	Level 7 (44900-142400)	Directorate of Panchayat District Rural Development Agency	01
			Tourism Department	01
			Directorate of Planning, Statistics & Evaluation	04
			Directorate of Education	01
			Directorate of Industries, Trade & Commerce	01
			Directorate of Mines & Geology	01
			Directorate of Social Welfare	01
			Directorate of Tribal Welfare	01
			Directorate of Animal Husb. & Veterinary Services	01
Total sanctioned posts of Statistical Officer				13
5.	Research Assistant	Level 6 (35400-112400)	Directorate of Animal Husb. & Veterinary Services Curti, Ponda	01
			Directorate of Agriculture	01
			Directorate of Planning, Statistics & Evaluation	11
			Directorate of Higher Education, Porvorim	01

1	2	3	4	5
			Electricity Department	01
			Directorate of Fisheries	01
			Office of the Labour Commissioner	01
			Deptt. of Urban Dev., (Mun. Administration)	01
			Directorate of Mines & Geology	01
			Directorate of Panchayat	02
			Directorate of Art & Culture	01
			Office of the Collector, North Goa District	01
			Office of the Collector, South Goa District	01
			Deptt. of Civil Supplies & Consumer Affairs	01
			Forest Department	01
			Directorate of Women & Child Development	01
			Directorate of Skill Development & Entrepreneurship	01
			Tourism Department	01
			Dist. Rural Dev. Agency, North	01*
			Dist. Rural Dev. Agency, South	01*
			Election Office	01*
Total sanctioned posts of Research Assistant				32
6.	Statistical Assistant	Level 5 (29200-92300)	Directorate of Animal Husb. & Veterinary Services, Panaji	01
			Directorate of Animal Husb. & Veterinary Services Curti, Ponda	01
			Directorate of Agriculture, Panaji	04
			Directorate of Art & Culture, Panaji	01
			Office of the Commissioner of Commercial Taxes, Panaji	01
			Captain of Ports Deptt., Panaji	01
			Deptt. of Cooperation, Office of the Registrar of Co-op Societies, Panaji	01
			Directorate of Skill Development & Entrepreneurship, Panaji	01
			Directorate of Education, Porvorim	06
			South Educational Zone, Margao	01
			Directorate of Higher Education, Porvorim	02
			District Institute of Education & Training, Porvorim	01
			Directorate of Fisheries, Panaji	03
			Forest Department, Panaji	01

1	2	3	4	5
			Inspectorate of Factories & Boilers, Panaji	01
			Directorate of Health Services, Panaji.	07
			T. B. Control, DHS, Panaji	01
			Hospicio Hospital, Margao	01
			North Goa District Hospital, Mapusa	01
			Sub District Hospital, Ponda	01
			Directorate of Industries, Trade & Commerce	01
			Office of Commissioner, Labour & Employment	01
			Office of Commissioner, Labour & Employment, Regional Employment Exchange	01
			Directorate of Mines & Geology	02
			Directorate of Panchayat	03
			Block Development Office, Dharbandora	01
			Block Development Office, Pernem	01
			Block Development Office, Ponda	01
			Block Development Office, Quepem	01
			Block Development Office, Salcete	01
			Block Development Office, Canacona	01
			Block Development Office, Sanguem	01
			Block Development Office, Mormugao	01
			Block Development Office, Bicholim	01
			Block Development Office, Bardez	01
			Block Development Office, Tiswadi	01
			Block Development Office, Sattari	01
			Public Works Department	01
			Office of the Director General of Police, Panaji	01
			Directorate of Social Welfare	01
			Directorate of Tribal Welfare	01

1	2	3	4	5
			Directorate of Sports & Youth Affairs, Panaji	01
			Directorate of Transport, Panaji	01
			Town & Country Planning, Panaji	02
			Tourism Department	01
			Directorate of Women & Child Development, Panaji	01
			South Goa District Cell, WCD, Margao	01
			WCD, Block Office, Margao	01
			WCD, Block Office, Canacona	01
			WCD, Block Office, Sanguem	01
			WCD, Block Office, Panaji	01
			WCD, Block Office, Ponda	01
			WCD, Block Office, Mapusa	01
			WCD, Block Office, Quepem	01
			WCD, Block Office, Pernem	01
			WCD, Block Office, Bicholim	01
			WCD, Block Office, Mormugao	01
			WCD, Block Office, Sattari	01
			WCD, Block Office, Dharbandora	01
			Water Resources Department, Porvorim	01
			Office of the Collector, North Goa District	01
			Office of the Collector, South Goa District	01
			Office of Commissioner of Excise	01
			Deptt. of Civil Supplies & Consumer Affairs	01
			State Council of Educational Research & Training, Alto Porvorim	01*
			Dte. of Planning, Statistics & Evaluation, Porvorim	26
			Dist. Rural Dev. Agency, North	01*
			Dist. Rural Dev. Agency, South	01*
Total sanctioned posts of Statistical Assistant				114
7.	Investigator	Level 4 (25500-81100)	Directorate of Animal Husb. & Vet. Services, Panaji	02
			Directorate of Animal Husb. & Vet. Services, Ponda	06
			Directorate of Agriculture	01
			Zonal Agriculture Office, Bicholim	03
			Zonal Agriculture Office, Margao	05
			Zonal Agriculture Office, Ponda	02
			Zonal Agriculture Office, Mapusa	03

1	2	3	4	5
			Zonal Agriculture Office, Quepem	03
			Zonal Agriculture Office, Pernem	02
			Zonal Agriculture Office, Sanguem	03
			Zonal Agriculture Office, Sattari	02
			Zonal Agriculture Office, Canacona	01
			Registrar of Co-op. Societies	01
			Directorate of Education	03
			North Educational Zone, Mapusa	01
			Higher Education, Porvorim	02
			Electricity Department	01
			Directorate of Fisheries	02
			Forest Department	02
			Directorate of Industries, Trade & Commerce	02
			Office of the Labour Commissioner	01
			Deptt. of Urban Dev., (Mun. Administration)	01
			Public Works Department	02
			Dte. of Social Welfare	02
			Dte. of Tribal Welfare	02
			Dte. of Transport, Panaji	01
			Asstt. Director of Transport, South, Margao	01
			Town & Country Planning Deptt.	02
			Dte. of Art & Culture	02
			Dte. of Archives & Archaeology	01
			Office of Commissioner of Excise	01
			Deptt. of Civil Supplies & Consumer Affairs	02
			Dte. of Fire & Emergency Services	01
			Dte. of Panchayat	04
			State Council of Educational Research & Training, Alto Porvorim	02*
			Institute of Psychiatry & Human Behaviour	01
			Deptt. of Information & Publicity	01
			Dist. Rural Dev. Agency, North	01*
			Dist. Rural Dev. Agency, South	01*
			Dte. of Sports & Youth Affairs	01
			Dte. of Women & Child Development	02
			Dte. of Health Services	06
			Community Health Centre, Pernem	01

1	2	3	4	5
			Community Health Centre, Valpoi	01
			Community Health Centre, Curchorem	01
			Community Health Centre, Canacona	01
			Community Health Centre, Bicholim	01
			Primary Health Centre, Aldona	01
			Primary Health Centre, Betki	01
			Primary Health Centre, Candolim	01
			Primary Health Centre, Balli	01
			Primary Health Centre, Cansaulim	01
			Primary Health Centre, Curtorim	01
			Primary Health Centre, Sanguem	01
			Primary Health Centre, Quepem	01
			Primary Health Centre, Pirna	01
			Primary Health Centre, Ponda	01
			Water Resources Deptt	01
			Deptt. of Skill Dev. & Entrepreneurship	01
			Tourism Deptt.	02
			Dte. of Plg., Stat. & Evl.	47
Total sanctioned posts of Investigator				151

Note: * On deputation reserve

** 01-Dy. Director (Admn) (Filled from Goa Civil Service Cadre)

1. This issues with the approval of the High Level Empowered Committee (H.L.E.C.) constituted with the approval of the Council of Ministers in the XXth meeting held on 08-11-2017 vide Order No. 09/10/HLEC/2018-ARD dated 17-07-2017 issued by Administrative Reforms Department, Secretariat, Porvorim.

2. Approval of the High Level Empowered Committee (H.L.E.C.) is conveyed vide letter No. 9/57/IDCO/2019-ARD/244 dated 17-07-2019 & letter No. 9/57/IDCO/2019-ARD/428 dated 22-11-2019 issued by the Department of Administrative Reforms, Secretariat, Porvorim.

3. HLEC approved that 11 posts of Statistical Assistant presently that were existing in the sanctioned strength of Directorate of Planning, Statistics & Evaluation posted in BDOs are to be transferred and included in the strength of Directorate of Panchayat and their salary to be drawn from Directorate of Panchayat w.e.f. 01-04-2020.

4. The existing 03 (three) posts of Research Assistant on deputation i.e. in District Rural Development Agency, North & South and 01 (one) post of Election office are included above vide letter No. 9/57/IDCO/2019-ARD/428 dated 22-11-2019.

5. This has the approval of the Government vide No. 1673/F dated 09-03-2021.

6. This supersedes the earlier order No. DPSE/I/ADMN/Creation/2019/1954 dated 26-11-2019.

By order and in the name of the Governor of Goa.

Dr. Y. Durga Prasad, Director & ex officio Jt. Secretary (Planning).

Porvorim, 5th April, 2021.

Department of Revenue

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Corrigendum

17/1/Fixation of Land Rates/2012-RD
(Part I)/8048

Read: (1) Order No. 17/1/Fixation of Land Rates/2012-RD/6850 dated 05-08-2020, published in Official Gazette, Series I No. 203 dated 13-08-2020.

(2) Addendum No. 17/1/Fixation of Land Rates/2012-RD/6893 dated 25-08-2020, published in Official Gazette, Series I No. 23 dated 03-09-2020.

In the above cited Order and Addendum with respect to Salcete Taluka, Village of Sernabatim rates per under coastal area shall be read as Rs. 2,100/-.

The rest of the contents of the above read Addendum shall remain unchanged.

The above rates shall come into force with immediate effect.

By order and in the name of Governor of Goa.

Sudin A. Natu, Under Secretary (Revenue-I),
Porvorim, 30th March, 2021.



Department of Urban Development

Goa Real Estate Regulatory Authority

Notification

1/RERA/Regulations of GRERA/2020/1

TRANSACTION OF BUSINESS BY THE GOA
REAL ESTATE REGULATORY AUTHORITY,
REGULATION, 2021

In exercise of the powers conferred by section 29 and section 85 of The Real Estate (Regulation and Development) Act, 2016, hereby makes the following regulation, namely:—

1. *Short title and commencement.*— (1) These regulations may be called The

Transaction of Business by the Goa Real Estate Regulatory Authority Regulation, 2021.

(2) They shall come into force at once.

2. *Definitions.*— (1) In these regulations, unless the context otherwise requires,—

(a) “Act” means the Real Estate (Regulation and Development) Act, 2016;

(b) “Complainant” means a person who makes a complaint, under section 31(1) and (2) of the Act, 2016 and Rules thereof;

(c) “Chairperson” means the Chairperson of the Goa Real Estate Regulatory Authority appointed under section 21;

(d) “Section” means a section of the Act.

(e) “adjudicating officer” means the adjudicating officer appointed under sub-section (1) of section 71;

(f) “Appellate Tribunal” means the Real Estate Appellate Tribunal established under section 43;

(g) “Authority” means the Real Estate Regulatory Authority established under sub-section (1) of section 20.

(2) Words and expressions used in these regulations but not defined shall have the same meaning as respectively assigned to them in the Act.

3. (i) The Authority shall hold its meetings on weekly basis every Wednesday at 11.00 a.m. in the chamber of the Chairperson, as far as practicable unless otherwise, to discuss on matters pertaining to registration, complaints, etc.

(ii) The quorum to hold meeting in presence of at least one member in addition to the Chairperson out of two Members and Chairperson as the case may be.

(iii) In the absence of the Chairperson, the senior most member appointed to the Authority will be the Chairperson to hold meeting.

(iv) In rare situation, where only either one member or chairperson of the Authority is available, such Authority shall hold the meeting as the case may be.

(v) The Authority may co-opt or invite any official (s) or invitees for discussion on important issues.

(vi) All questions which comes up before the meeting of the Authority shall be decided as per provisions under section 29 (3) (4) of the Real Estate (Regulation and Development) Act, 2016.

(vii) The Chairperson shall exercise powers of general superintendence and directions in the conduct of the affairs of Authority and he shall in addition to presiding over the meetings of the Authority, exercise and discharge such administrative powers and functions of the Authority as per provisions under section 25 of Real Estate (Regulation and Development) Act, 2016.

(viii) Authority may, by general or special order in writing, delegate to any member, officer of the Authority or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to make regulations under section 85) as it may deem necessary as empowered under section 81 of the Act.

(ix) All cases pertaining to registration of real estate projects, agents, extension/renewal, interpretation of various provisions of the act/rules and other important matters shall be decided in the meetings of the Authority, or through circulation amongst the Member (s) and Chairperson present as the case may be. However, the cases for registration which are not complied with necessary document or information or clarification may be referred for hearing by the members of the authority.

(x) All cases of complaints on registration, violation against various provisions of the act/rules shall be assigned to the Member (s) by the Chairperson. They shall hear the complaints and decide on merits. Such

decision of the member is final and an aggrieved person may appeal to the designated Goa Real Estate Appellate Tribunal. At present Goa Administrative Tribunal at Panaji has been designated as Appellate Tribunal.

(xi) As per provisions under section 71 of the Act for the purpose of adjudging compensation under section 12, 14, 18 and section 19, the Authority appoints adjudicators with the approval of the Government. The Chairperson allocate the cases amongst the Adjudicators. The Authority may also refer cases under the above sections for adjudication after preliminary hearing.

4. These regulations will be reviewed from time to time by the Authority keeping in view the exigencies or requirement.

S. KUMARASWAMY, IAS (Retd.)
Chairperson, Goa RERA

Place: Panjim.

Dated: 18th March, 2021.

Notification

1/RERA/Regulations of GRERA/2020/2
DOCUMENTS/INFORMATION REQUIRED
FOR REGISTRATION OF REAL ESTATE
PROJECT REGARDING SEPARATE PLAN
FOR PHASE WISE OR PART
DEVELOPMENT, REGULATION, 2021

In exercise of the powers conferred by section 85(2) (c) read with section 4(2) (c) of The Real Estate (Regulation and Development) Act, 2016, hereby makes the following regulation, namely:—

1. *Short title and commencement.*— (1) These regulations may be called Documents/information required for registration of Real Estate Project regarding separate plan for phase wise or part development, Regulation, 2021.

(2) They shall come into force at once.

2. *Definitions.*— (1) In these regulations, unless the context otherwise requires,—

(a) “Act” means the Real Estate (Regulation and Development) Act, 2016.

(b) “Chairperson” means the Chairperson of the Goa Real Estate Regulatory Authority appointed under section 21.

(c) “Section” means a section of the Act.

(d) “Authority” means the Real Estate Regulatory Authority established under sub-section (1) of section 20.

(e) “apartment” means— as defined under section 2 and sub-section (e) of the Act.

(f) “promoter” means— as defined in section 2 and sub-section (zk) (i) (ii) (iii) (iv) (v) and (vi) of the Act.

(g) “prescribed” means prescribed by regulations made under the act.

(h) “project” means— the real estate project as defined under section 2 and sub-section (zn) of the Act.

(i) “Regulation”— means the regulation made by the Authority under the section 2 and sub-section (zo) of the Act.

3. Words and expressions used in these regulations but not defined shall have the same meaning as respectively assigned to them in the Act.

4.1. As per section 3 (1) of The Real Estate (Regulation & Development) Act, 2016 prior registration of the real estate project with real estate regulatory authority is necessary, prior to advertise, market, book, sell or offer for sale or invite persons to purchase where the area of land proposed to be developed exceeds five hundred square meter or the number of apartments proposed to be developed exceeds eight inclusive of all phases. Explanation pertaining to above states that “For the purpose of this section, where the real estate project is to be developed in phases, every such phase shall be considered as a standalone real estate

project, and the promoter shall obtain registration under this Act for each phase separately”.

4.2. As per section 4(1) of the RE(R&D) (Act), 2016, every promoter shall make an application to the Authority for registration of the real estate project in such form, manner, within such time and accompanied by such fee as may be specified by the Authority, enclosing all the relevant documents prescribed therein. As per proviso of sub-section (c) of section 4(2) of the Act “where the project is proposed to be developed in phases, an authenticated copy of the approvals and commencement certificate from the competent authority for each of such phases”.

As per proviso of sub-section (d) of section 4(2) of the Act, “the promoter have to furnish the sanctioned plan, layout plan and specifications of the proposed project or the phase thereof and the whole project as sanctioned by the competent authority”.

4.3. This authority has come across certain instances of cases where the development permission is taken for entire plot but applied for registration with the authority for phase wise or part development without giving detailed break up into phase wise development of the plot. In order to determine the area of the phase wise/part development, the authority decided to regulate the same under section 85 (2) (c) read with section 4 (2) (c) of the Real Estate (Regulation and Development) Act, 2016 as following:

4.3.1 “If a Developer/Promoter desires to develop the plot in phase wise manner for which a single composite approval from the competent authority has been taken, the promoter shall have to indicate phase wise development of plot with all the phases and area (in square meters), details along with a rough sketch plan demarcating the different phases of the development and its plot area (in square meters), duly signed by the Promoter”.

5. These regulations will be reviewed from time to time keeping in view the exigencies or requirement.

S. KUMARASWAMY, IAS (Retd).
Chairperson, Goa RERA.

Place: Panjim.

Dated: 18th March, 2021.

Notification

1/RERA/Regulations of GRERA/2020/3

ACCORDING APPROVAL FOR TRANSFER
OF A REAL ESTATE PROJECT TO A
THIRD PARTY, REGULATION, 2021

In exercise of the powers conferred by section 85(2) (i) and (h) and section 34(e) of The Real Estate (Regulation and Development) Act, 2016, hereby makes the following regulation, namely:

1. *Short title and commencement.*— (1) These regulations may be called According approval of transfer of a real estate project to a Third party, Regulation, 2021.

(2) They shall come into force at once.

2. *Definitions.*— (1) In these regulations, unless the context otherwise requires,-

(a) “Act” means the Real Estate (Regulation and Development) Act, 2016;

(b) “Chairperson” means the Chairperson of the Goa Real Estate Regulatory Authority appointed under section 21;

(c) “Section” means a section of the Act.

(d) “Authority” means the Real Estate Regulatory Authority established under sub-section (1) of section 20.

(e) “Allottee” means— as defined under section 2 and sub-section (d) of the Act.

(f) “promoter” means,— as defined under section 2 and sub-section zk (i) (ii) (iii) (iv) (v) & (vi) of the Act.

(g) “building” means as defined under section 2 and sub-section (j) of the Act.

3. Words and expressions used in these regulations but not defined shall have the same meaning as respectively assigned to them in the Act.

4.1. The obligations of promoter in case of transfer of a real estate project to third party is governed under section 15(1) and (2) of the Real Estate (Regulations and Development) Act, 2016. The highlights of the section are as following:

(i) Prior written consent from two-third allottees except the promoter, as well as prior written approval of the Authority is mandatory for transfer or assign majority rights and liabilities to a third party by a promoter in respect of a real estate project.

(ii) Such transfer or assignment shall not affect the allotment or sale of the apartments, plots or buildings made by the erstwhile promoter.

(iii) The allottee means in this sub-section is irrespective of the number of apartments or plots, booked by him or booked in the name of his family, or in the case of other persons such as companies or firms or any association of individuals, booked in its name or booked in the name of its associated entities or related enterprises, shall be considered as one allottee only.

(iv) After transfer or assignment, the intending promoter shall be required to independently comply with all the pending obligations under the provisions of this Act or the rules and regulations made thereunder, and the pending obligations as per the agreement for sale entered into by the erstwhile promoter with the allottees.

(v) The transfer or assignment permitted under provisions of this section shall not result in extension of time to the intending promoter to complete the real estate project. In case of default the intending

promoter shall be liable to the consequences of breach or delay, as provided under this Act or the rules and regulations.

4.2. This Authority is receiving cases of registered real estate project for transfer or to assign rights to the Third party. Therefore the following regulations laid under section 85 (2) (i) and (h) and section 34 (e) of the Real Estate (Regulation & Development) Act, 2016, for seeking online approval of the Authority:

(a) Submit prior written consent of two – third allottees if any, except the promoter.

(b) Submit details of the promoter (third party) in online prescribed format.

(c) Submit Development Agreement signed between the promoter and the third party duly registered by the competent Authority laying down role and responsibilities of each party.

(d) Submit draft copy of Agreement for sale as per 'Model form of Agreement' as per rules in force. [See Rule 10(1)] Model Form of Agreement to be entered into between promoter and Allottees.

(e) Submit a fresh 'Affidavit cum declaration' in prescribed format (Form II) on stamp paper of value not less than Rs. 500/- with all details. [see Rule 3(6)] Form of Declaration supported by an Affidavit which shall be signed by the Promoter or Any person Authorised by the Promoter.

(f) Submit Annual Report and quarterly update status as prescribed under section 11 of the RERA (Act), 2016.

(g) Submit latest CA certificate with 'Annexure A' regarding status of sale proceedings of the project (**Annexure-I**).

(h) Fee of Rs. 10,000/- (Ten thousand only) shall be levied for transaction.

5. These regulations will be reviewed from time to time by the Authority keeping in view the exigencies or requirement.

S. KUMARASWAMY, IAS (Retd).
Chairperson, Goa RERA.

Place: Panjim.

Dated: 18th March, 2021.

ANNEXURE-I

FORM 4

[See Rule 5 (1) (a) (ii)]

CHARTERED ACCOUNTANT'S CERTIFICATE (On Letter Head)

(For Registration of a Project and Subsequent Withdrawal of Money)

Cost of Real Estate Project Goa RERA Registration Number _____

Sr. No.	Particulars	Amount (Rs.)	
		Estimated	Incurred
1	2	3	

1. i. *Land Cost :*

a. Acquisition Cost of Land or Development Rights, lease Premium, lease rent, interest cost incurred or payable on land cost and legal cost

OR

1

2

3

Value of Land as ascertained from ASR prepared under the provisions of the Applicable Act applicable on the date of registration real estate project or as ascertained by Registered Valuer (In case due to inheritance, gift or otherwise, is not required to incur any cost to wards acquisition of ownership or title to land)

- b. Amount of premium payable to obtain development rights, FAR, additional FAR, fungible area, and any other incentive under DCR from Local Authority or State Government or any Statutory Authority
- c. Acquisition cost of TDR (if any)
- d. Amounts payable to State Government or competent authority or any other statutory authority of the State or Central Government, towards stamp duty, transfer charges, registration fees etc; and
- f. Land Premium payable as per annual statement of rates (ASR) for redevelopment of land owned by public authorities.
- g. *Under Rehabilitation scheme:*
- (i) Estimated construction cost of rehab building including site development and infrastructure for the same as certified by Engineer
- (ii) Actual Cost of construction of rehab building incurred as per the books of accounts as verified by the CA
- Note:* (for total cost of construction incurred, Minimum of (i) or (ii) is to be considered)
- (iii) Cost towards clearance of land of all or any encumbrances including cost of removal of legal/illegal occupants, cost for providing temporary transit accommodation or rent in lieu of Transit Accommodation, overhead cost,
- (iv) Cost of ASR linked premium, fees, charges and security deposits or maintenance deposit, or any amount whatsoever payable to any authorities towards and in project of rehabilitation.
- Sub-Total of LAND COST1(i)...

ii. *Development Cost/Cost of Construction:*

- a. (i) Estimated Cost of Construction as certified by Engineer
- (ii) Actual Cost of construction incurred as per the books of accounts as verified by the CA.
- Note:* (for adding to total cost of construction incurred, Minimum of (i) or (ii) is to be considered)
- (iii) On-site expenditure incurred for development of project or phase of the project registered i.e. salaries, consultants fees, site overheads, development works,

1	2	3
	cost of services (including water, electricity, sewerage, drainage, layout roads etc.), cost of machineries and equipment including its hire and maintenance costs, consumables etc. excluding cost of construction as per (i) or (ii) above	
	(iv) Off-Site expenditure incurred for development of project or phase of the project including all costs directly or indirectly incurred to complete the construction of the entire project or phase of the project registered.	
	b. Payment of taxes, cess, fees, charges, premiums, interest etc. to any statutory Authority.	
	c. Principal sum and interest payable to financial institutions, scheduled banks, non-banking financial institution (NBFC) or money lenders on construction funding or money borrowed for construction;	
	Sub-Total of Development Cost1(ii)...
2.	Total Estimated Cost of the Real Estate Project [1(i) + 1(ii)] of Estimated Column	
3.	Total Cost Incurred of the Real Estate Project [1(i) + 1(ii)] of Incurred Column	
4.	% completion of Construction Work (as per Project Architect's Certificate)	
5.	Proportion of the Cost incurred on Land Cost and Construction Cost to the Total Estimated Cost. (3/2%)	
6.	Amount which can be withdrawn from the Designated Account Total Estimated Cost * Proportion of cost incurred (Sr. number 2 * Sr. number 5)	
7.	Less: Amount withdrawn till date of this certificate as per the Books of Accounts and Bank Statement	
8.	Net Amount which can be withdrawn from the Designated Bank Account under this certificate	
	(Rupees) _____	

This certificate is being issued for compliance under the Real Estate (Regulation and Development) Act, 2016 for- (name of the company/promoter) and is based on the records and documents produced before me and explanations provided to me by the management of the Company.

(Signature and Stamp/Seal of the Signatory CA)

Name of the Signatory :

Membership No.:

Date :

Place :

Full Address :

Contact No. :

E mail :

Note:-1. The Expression "incurred" would mean amount of product or service received, creating a debt in favour of a seller or supplier and shall also include the amount of product or service received against the payment.

2. With respect to an Ongoing Project, at the time of registration of the Real Estate Project, the Estimated Land Cost and Development Cost/Cost of Construction to be certified shall be for the cost of the real estate project, since its inception and not the balance Estimated Land Cost and Development Cost/Cost of Construction to complete the project. That is, the total Incurred Cost of the Real Estate Project shall be the aggregate of the Incurred Land Cost and Development Cost/Cost of Construction of the project, since its inception till the date of the issuance of the certificate and the estimate Land Cost and Development Cost/Cost of Construction shall be for the entire project from the inception till completion.

3. Development cost/cost of construction of project should not include marketing and brokerage expenses towards sale of apartments. Such expenses though project cost, should not be borne from the amount that is required to be deposited in the designated separate account.

Annexure A

Statement for calculation of Receivables from the Sales of the Ongoing Real Estate Project

Sold Inventory

Sr. No.	Flat No.	Carpet Area (in sq. mts.)	Unit Consideration as per Agreement/ Letter of Allotment	Received Amount	Balance Receivable

(Unsold Inventory Valuation)

Ready Recknor Rate or Rate as ascertained by a registered valuer on the date of issuance of Certificate of the residential/commercial premises :

Rs. _____ per sm

Sr. No.	Flat No.	Carpet Area (in sq. mts.)	Unit Consideration as per Ready Reckoner Rate (ASR) or as ascertained by a registered valuer on the date of issuance of certificate

FORM 5

See Rule 4 (2)

(ADDITIONAL INFORMATION FOR ONGOING PROJECTS) CHARTERED ACCOUNTANT'S CERTIFICATE (On Letter Head)

Goa RERA Registration Number : _____ (mention Reg. Number)

Sr. No.	Particulars	Amount (Rs.)
1.	Estimated Balance Cost to Complete the Real Estate Project (Difference of Total Estimated Project cost less Cost incurred) (calculated as per the Form IV)	
2.	Balance amount of receivables from sold apartments as per Annexure A to this certificate (as certified by Chartered Accountant as verified from the records and books of Accounts)	
3.	(i) Balance Unsold area (to be certified by Management and to be verified by CA from the records and books of accounts)	Sq. Mt.
	(ii) Estimated amount of sales proceeds in respect of unsold apartments (calculated as per ASR or as ascertained by a registered valuer multiplied to unsold area as on the date of	

certificate, to be calculated and certified by CA) as per
Annexure A to this certificate

4. Estimated receivables of ongoing project. Sum of 2 + 3 (ii)

5. Amount to be deposited in Designated Account – 70% or 100%

If 4 is greater than 1, then 70 % of the balance receivables of ongoing project will be deposited in designated Account.

If 4 is lesser than 1, then 100% of the balance receivables of ongoing project will be deposited in designated Account.

This certificate is being issued for compliance under the Real Estate (Regulation and Development) Act, 2016 _____ for (name of the company/promoter) and is based on the records and documents produced before me and explanations provided to me by the management of the Company.

(Signature and Stamp/Seal of the Signatory CA)

Name of the Signatory :

Membership No. : Date :

Place :

Full Address :

Contact No. :

E mail :

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